THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 18726 of 2005

17-08-2006

Between:-

L.R. Jayaprakash

Petitioner

And

The Municipal Commissioner, Chittoor, Chittoor district and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 18726 of 2005

Oral order:

The writ petition is filed challenging the proceedings of the 1st respondent dated 16-08-2005 appointing the 2nd respondent as Standing Counsel for the Chittoor Municipality, for a period of three years with effect from 17-08-2005.

The petitioner assails the impugned proceedings principally on the ground that as the 2nd respondent is not a resident of Chittoor, the impugned appointment is in transgression of the guidelines set out in the 1st respondent's letter dated 10-11-2004 for appointment of a Standing Counsel to the Municipality.

The 1st respondent addressed a letter dated 10-11-

2004 to the President, Bar Association, Chittoor soliciting publication of a notice in the Bar Association Board, seeking applications from members of the Bar Association who have an experience of not less than seven (7) years in civil and criminal cases, for appointment as a Standing Counsel for the Municipality. The 1st respondent's letter dated 10-11-2004 specified the date for receipt of applications by the members of the Bar and stipulated that the applicants must be member of a local Bar Association, have seven (7) years experience in civil and criminal cases and the age should not exceed sixty (60) years, on a three year tenure.

The impugned order of the 1st respondent states that the Council of the Municipality in its resolution No. 170 dated 10-08-2005 had decided to appoint the 2nd respondent as the Municipal Standing Counsel for a three years term with effect from 17-08-2005 and that the appointee should abide by all the terms and conditions stipulated in G.O.Ms.No. 706 M.A. & U.D. Department dated 03-08-1968, being the Rules regulating the appointment of a Standing Counsel for the Municipality.

According to the learned counsel for the petitioner, Rule 4 of the Rules stipulates that no person is eligible for being appointed or continued as a Standing Counsel of the Municipality if he/she attains the age of sixty (60)

years. According to the petitioner, as the 2nd respondent would attain 60 years by January, 2007, he ought not to have been appointed for a three years term by the impugned proceedings.

None of the contentions urged by the petitioner for impeaching the appointment of the 2nd respondent as Standing Counsel for the Municipality, commend acceptance by this court. Any requirement that a legal practitioner should be a resident of a particular locality cannot be valid as it would run counter to constitutional principles which afford equal opportunities under the law for public employment (even if the appointment of a Standing Counsel for the Municipality be regarded as public employment). As a matter of convenience, the appropriate authority considering the engagement of a Standing Counsel could consider the normal habitat or residence of a legal practitioner as an input for considering the candidature. Exclusion of any legal practitioner for engagement as Standing Counsel for a public or local authority on the singular and exclusive ground that he is/or is not a resident of a particular locality, would however be illegal and unsustainable. The petitioner's contention that since the 2nd respondent is not a resident of Chittoor, he is disqualified for being appointed as a Standing Counsel for the Chittoor

Municipality, is therefore a contention that is stated to be rejected.

The other contention that the 2nd respondent suffers a disability for continuance as Standing Counsel from January, 2007 and therefore he ought not even to have been considered for appointment as a Standing Counsel in 2005, must also be rejected out of hand. The very order of appointment issued by the 1st respondent (impugned in this writ petition), not only specifies the term of office of the 2nd respondent as Standing Counsel to be for three years, but also that the appointment is subject to the Rules. Therefore on a harmonious construction of the several clauses of the order of appointment, the conclusion is irresistible that as and when the 2nd respondent incurs any of the disqualifications for continuance as a Standing Counsel under the Rules, he will have to demit the appointment.

For the aforesaid reasons, there are no merits. The writ petition is accordingly dismissed. No costs.

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GODA RAGHURAM, J

Dated:17-08-2006
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